BRANDYE N. FOREMAN
CA NO. 277110
BARRETT DAFFIN FRAPPIER
TREDER & WEISS, LLP
20955 PATHFINDER ROAD
SUITE 300
DIAMOND BAR, CA 91765
Phone: (626) 915-5714, Fax: (972) 661-7726
E-mail: NDCAECF@BDFGROUP.COM
File 5668645

Attorney for Movant
U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF8 MASTER PARTICIPATION
TRUST

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA – SANTA ROSA DIVISION

In re: PETER BROOKS Debtor.	CASE NO.: 16-10696-AJ-13 CHAPTER: 13 R.S. NO.: EAT-1742 MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY DATE: March 3, 2017 TIME: 1:30 pm PLACE: U.S. Bankruptcy Court 99 South E Street Santa Rosa, CA

Secured Creditor U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST ("Movant") hereby moves the court for an Order Terminating Automatic Stay for cause pursuant to *11 U.S.C. Section 362(d)(1)* and the co-debtor stay of 11 U.S.C. § 1301(a) on the grounds hereafter set forth:

1. On August 16, 2016, the Debtor PETER BROOKS commenced this voluntary Chapter 13 case in the United States Bankruptcy Court for the Northern District of California, Santa Rosa Division, Case No. 16-10696-AJ-13. DAVID E. BURCHARD is the duly appointed, qualified and acting Chapter 13 Trustee.

2. The Debtor's estate includes real property commonly known as **9619 MONTEZ COURT, WINDSOR, CA 95492** and legally described in the attached Deed of Trust.

3. On or about March 25, 2005, non filing Debtor SHARON DAWSON executed a Note in the original sum of $676,000.00 in favor of Movant's predecessor WASHINGTON MUTUAL BANK, FA. The original loan amount was payable with interest at the initial rate of 5.4110% per annum in monthly principal and interest installments of $2,252.78 each, commencing May 01, 2005 and continuing thereafter each calendar month through April 01, 2035 at which time the entire unpaid principal balance plus accrued interest shall be due and payable.

4. The Note endorsed in blank is secured by a first priority Deed of Trust against said real property recorded on April 04, 2005 as Instrument No. 2005044213 in the Office of the County Recorder of SONOMA County, CA. The beneficial interest in the Deed of Trust was transferred to Movant by way of an Assignment of Deed of Trust dated March 30, 2015.

5. The Debtor defaulted in his monthly payment obligations prior to bankruptcy filing, and a Proof of Claim itemizing the Debtor's pre-petition default has been or will be filed. Movant has commenced foreclosure proceedings by recording a Notice of Default on August 17, 2015. Thereafter, a Notice of Trustee's Sale recorded on July 12, 2016 scheduling an initial foreclosure sale for August 17, 2016.

///

///

6. As of the date of the attached declaration, Debtor's loan is not currently under loan modification review nor has the debtor applied for a loan modification.

7. As of December 08, 2016 the unpaid principal balance is $701,371.52.

8. The Debtor has materially defaulted in his obligation by failing to make regular post-petition monthly mortgage installments totaling $17,277.32 from September 01, 2016 through and including December 01, 2016. Another post-petition installment of $4,319.33 will become due on January 01, 2017. In addition, Movant has incurred attorney fees and costs totaling $1,026.00 to prosecute this relief from stay motion. These legal expenses are recoverable as additional obligations payable under the Note and Deed of Trust. The Debtor's default is cause under *11 U.S.C. Section 362(d)(1)* to terminate the automatic stay. *See* Ellis v. Parr (In re Ellis), 60 B.R. 432, 434-435 (9th Cir. BAP 1985). Further, any co-debtor stay should also be terminated as it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. §362(a). *See* 11 U.S.C. §1301(c).

WHEREFORE, Movant prays for an Order as follows:

1. For an Order Granting Relief from the Automatic Stay under 11U.S.C. §362(d)(1) to allow moving party to enforce its state law foreclosure remedies against the real property described above and to allow the successful bidder to recover possession of said real property in accordance with applicable state laws.

2. For an order terminating the co-debtor stay under 11 U.S.C. §1301(c) as to the co-debtor, on the same terms and conditions as to the Debtor.

3. That the Order Granting Relief from the Automatic Stay be deemed effective and enforceable immediately upon its entry with no stay on its enforcement as prescribed by *Rule 4001(a)(3)* of the *Federal Rules of Bankruptcy Procedure*.

4. For such other relief as the court deems proper.

5. That the Order Granting Relief from the Automatic Stay be binding and effective notwithstanding any conversion of this case to a case under any Chapter of *Title 11* of the *United States Code* without further notice, hearing, or court order.

BARRETT DAFFIN FRAPPIER
TREDER & WEISS, LLP

Dated: January 26, 2017 By: /s/ Brandye N. Foreman______
BRANDYE N. FOREMAN
Attorney for Movant